

**RULES OF THE
SUPREME COURT
OF THE
STATE OF DELAWARE**

**PART V. ATTORNEYS
Subpart A - Board of Bar Examiners**

RULE 51. BOARD OF BAR EXAMINERS.

(a) Appointment and Term of Office. The Court shall appoint a Board of Bar Examiners (the "Board") consisting of such number of members of the Bar as the Court shall determine. Each of the counties shall be represented on the Board. Each member of the Board shall be appointed for a term of 4 years, unless the Court shall order otherwise. No member shall be appointed to serve for more than 2 consecutive terms, unless otherwise ordered by the Court. At the request of the Board, the Court may appoint as a temporary Board member (to perform such duties as shall be prescribed by the Board) any former Board member whose term ended within 3 years of the appointment.

(b) Duties. It shall be the duty of the Board to administer Rules 51 through 55. The Board shall examine applicants for admission to the Bar upon principles of law and equity at least once a year. The Court shall select a Chair and a Vice Chair. The Court may also appoint a Secretary and an Assistant Secretary who, if appointed, may be members of the Board. The duties of the Secretary and Assistant Secretary shall be prescribed by the Board.

(c) Powers. The Board shall have the power:

(1) Internal Operating Rules. To adopt rules of procedure for the conduct of its duties;

(2) Bar Admission Rules. Subject to the approval of the Court, to adopt general rules, in furtherance of and supplemental to the Rules of the Court, relating to the admission to the Bar;

(3) Subpoenas. In connection with the performance of its duties, to take testimony under oath and to compel the attendance of witnesses and the production of documents by the filing of a praecipe for a subpoena with the Clerk of the Supreme Court, service of such subpoena to be made in a manner prescribed by the Clerk;

(4) Fees. To require the payment by each applicant for admission to the Bar, prior to or after examination, of such reasonable fees as the Board shall require by general rule;

(5) Stenographers. To employ such stenographic or other assistance as may from time to time be necessary or proper; and

(6) Character Investigation. To conduct such investigation of an applicant for admission to the Bar prior to or after examination as shall be necessary to determine the fitness of such applicant and the applicant's compliance with the Rules of the Court and the rules of the Board, and to charge any such applicant a reasonable fee for such investigation in addition to the fees generally applicable to all applicants.

(d) Associate Members. The Court may appoint associate members of the Board to assist each member of the Board. Each associate member shall be appointed for a term of 1 year and shall have such duties and functions as shall be prescribed by the Board. Associate members of the Board shall not have the power to vote upon any determination or decision of the Board.

(e) **Members-Elect.** The Court may appoint up to two Members-Elect per year to assist in the function and operation of the Board. Each Member-Elect shall be appointed for a term of 1 year and shall have such duties and functions as shall be prescribed by the Board. Members-Elect shall not have the power to vote upon any determination or decision of the Board.

RULE 52. ADMISSION TO THE BAR - GENERAL.

(a) **Requirements for Admission.** No person shall be admitted to the Bar unless the applicant shall have qualified by producing evidence satisfactory to the Board:

(1) **Character and Aptitude.** That the applicant is a person of good moral character and reputation and that the applicant possesses such qualities, aptitudes and disposition as fit the applicant for the practice of law.

(2) **Preceptor.** That the applicant is vouched for by a member of the Bar of this State who shall have been in practice in the courts of this State for at least 10 years, and such person shall be designated as the Preceptor for such applicant.

(3) **Age.** That the applicant is at least 21 years of age.

(4) **College or University.** That the applicant has completed the pre-legal education necessary to meet the minimum requirements for admission to a law school that at the time of admission was listed on the American Bar Association list of approved law schools. In the event that the applicant was admitted to such a law school without having first received a baccalaureate degree or its equivalent from an accredited college or university (the method of such accreditation to be determined by the Board), the applicant shall supply to the Board a copy of the law school's statement of considerations in the applicant's file or other supporting statement from the law school, satisfactory to the Board, setting forth the basis for the law school's decision to admit notwithstanding the absence of such a degree.

(5) **Law School.** That the applicant has been regularly graduated with a juris doctor degree or its equivalent from a law school which at the time of conferring such degree was listed on the American Bar Association list of approved law schools.

(6) **Multistate Professional Responsibility Examination.** That the applicant has taken the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners at such time as the Board shall determine and achieved such score as the Board shall determine.

(7) **Bar Examination.** That the applicant has been examined upon principles of law and equity and has been found by the Board based upon the applicant's performance on such examinations to be qualified to practice as an attorney.

(8) **Clerkship.** That the applicant has served a clerkship in the State of Delaware aggregating substantially full-time service for at least 5 months' duration as follows:

(i) **Law Office.** In the office of or under the direct and constant supervision of the applicant's Preceptor, or under the direct and constant supervision of such other member of the Bar of this State who is satisfactory to the applicant's Preceptor and has been in practice for at least 5 years theretofore;

(ii) **Law Clerk.** As a law clerk of a justice or judge of the courts of this State or of a United States judge residing in Delaware;

(iii) **Public Office.** In the office of the Department of Justice of the State of Delaware, the office of the Public Defender of the State of Delaware, the office of the United States Attorney for the District of Delaware, the office of the City Solicitor of the City of Wilmington, the office of Community Legal Aid Society, Inc., the office of Delaware Volunteer Legal Services, Inc. or in the office of a related or similar organization approved by the Board, under the direct and constant supervision of a member of the Bar of this State qualified under these Rules;

(iv) Duration. The five-month period need not be continuous; however, no part of a clerkship shall qualify unless it shall have been served after the applicant shall have matriculated at a law school described in subparagraph (5) of paragraph (a) of this Rule; or

(v) Legal Activities. The Board shall prepare and furnish to any person desiring to qualify for admission to the Bar a list of legal activities related to the practice of law to be accomplished by the applicant during the applicant's clerkship. Prior to the admission of any applicant as a member of the Bar, both the applicant and the applicant's Preceptor shall certify to the Board that the applicant has completed the required five-month clerkship and list of legal activities.

(9) Pre-Admission Program. That the applicant has satisfactorily attended a pre-admission session of instruction called by the Court or by the Board upon such subjects as the Court or the Board shall from time to time determine to be appropriate instruction for those seeking admission to the Bar, and has paid a fee of \$100.00 to the Clerk of the Supreme Court.

(10) Other Requirements. That the applicant has complied with such other requirements as the Board may, from time to time, with the approval of the Court, prescribe.

(11) Military Service Exception. In the event that an applicant satisfies all of the requirements for admission to the Bar except completion of the clerkship and/or attendance at the pre-admission program, and the applicant made a good faith effort to complete those requirements but was unable to do so because he or she was called to active duty in any of the armed services of the United States after taking the Bar examination, then, in the discretion of the Court, the applicant shall be qualified to be admitted to the Bar conditionally. Upon taking the oath, the applicant would then become a member of the Bar for all purposes, subject to the following: (i) if the applicant completes the clerkship requirement within six months after release from active duty and attends the next pre-admission program called by the Court or the Board, his or her bar admission will be made unconditional; (ii) if the applicant fails to complete those requirements, the applicant's conditional admission to the Bar may be revoked by the Court and the Court may order such other sanctions as may be warranted in the circumstances.

(b) Application for Admission to the Bar. A person seeking admission to the Bar shall file an application for admission to the Bar at such time prior to the administration of the bar examination as the Board shall determine by general rule. The Board shall determine, based upon such application and such other information as shall be available to the Board, whether or not permission to take the bar examination shall be granted, subject to any conditions which the Board in its discretion may impose.

(c) Deadline for Completion of Requirements of Admission. An applicant for admission to the Bar must have satisfied the requirements for admission and be admitted by December 31 of the calendar year following the year in which the applicant passes the Bar Examination. Except for good cause shown to the Board, if the applicant shall not have satisfied the requirements for admission to the Bar within the time prescribed, the applicant shall not be admitted without reexamination by the Board.

(d) Certification. Upon approval of the qualifications of any applicant for admission to the Bar, the Board shall execute and deliver to the applicant a certificate of the applicant's qualification for admission to the Bar.

(e) Appeals from Actions of the Board. Any person aggrieved by final action of the Board may appeal to the Court for relief if such action affects the substantial rights of the person claimed to be aggrieved, except that decisions of the Board with respect to a specific grade or grades assigned to any individual applicant are final and shall not be subject to review by the Court. The appeal shall be commenced by serving 2 copies thereof upon the Chair or the Executive Director of the Board and by filing the original and 1 copy with the Clerk of the Court in compliance with Rule 7, such service and filing to be accomplished within 30 days of the action of the Board. No appeal shall be accepted unless the provisions of this paragraph have been timely fulfilled. Appeals from the Board's action to the Court shall be briefed in accordance with Rule 15, argued and determined from the record of the matter before the Board of Bar Examiners and not by means of a hearing *de novo*. Findings by the Board relating to disputed issues of fact

and credibility will not be reversed by the Court as long as they are supported by substantial evidence.

RULE 53. ADMISSION TO THE BAR - ATTORNEYS ADMITTED ELSEWHERE.

Repealed, effective Feb. 21, 1984.

RULE 54. ADMISSION IN OPEN COURT; OATH.

Application for admission to the Bar shall be made in open court at any session of the Court or in the chambers of any Justice of the Court. Upon the admission of any person, the name of such person shall be forwarded by the Clerk of this Court to the Prothonotary and to the Register in Chancery in each of the counties of this State to be properly recorded by them. Every attorney shall, on the attorney's admission, subscribe to the roll of attorneys and take and subscribe the following oath or affirmation:

"I,, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware; that I will behave myself in the office of an Attorney within the Courts according to the best of my learning and ability and with all good fidelity as well to the Court as to the client; that I will use no falsehood nor delay any person's cause through lucre or malice."

RULE 55. LIMITED PERMISSION TO PRACTICE IN CERTAIN PUBLIC PROGRAMS.

(a) Limited Permission to Practice. Attorneys admitted to practice in other jurisdictions or graduates of law schools prescribed by Rule 52(a)(5) who are employed by or associated with Delaware Volunteer Legal Services, Community Legal Aid Society, Inc., Legal Services Corporation of Delaware, Inc., the Department of Justice of the State of Delaware, the Office of the City Solicitor of the City of Wilmington, the Office of the Public Defender of the State of Delaware, the Office of the Child Advocate of the State of Delaware, the New Castle County Office of Law or attorneys who are admitted to practice in other jurisdictions and are associated with a legal assistance program approved or recognized by the Board, may, in the discretion of the Board, be permitted to practice in the courts and administrative tribunals of this state in matters involving such office or the clients of such program. The requirements, qualifications and procedures for such permission shall be set forth in the rules of the Board.

(b) Application and oath. Application for permission to practice before the courts and administrative tribunals of the State under paragraph (a) of this Rule shall be made in open court at any session of the Court or in the chambers of any Justice of the Court. Each applicant shall, on being granted such permission, take and subscribe the following oath or affirmation:

"I,, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Delaware and that I shall conduct myself strictly in accordance with all the terms and conditions of the Rules of the Delaware Supreme Court and the Rules of the Board of Bar Examiners; that I will behave myself within the Courts and administrative tribunals according to the best of my learning and ability and with all good fidelity as well to the Court as to the client; that I will use no falsehood nor delay any person's cause through lucre or malice."

(c) Limited Permission is Not Admission to Bar. Applicants who are granted limited permission to practice under this Rule shall not be deemed to have been duly admitted to the practice of law before the Court.

(d) Annual Report. The Board shall file with the Court an annual report each year regarding the status of persons practicing under this Rule.

Revised 1/1/08